IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Second Appeal No. 126 of 2002

1. Smt. Renuka Roy W/o Haridas Ray
2. Jagdish Roy S/o Haridas Roy
3. Rajni Roy S/o Shri Jagdish Roy
   All R/o Dineshpur
   Tehsil Gadarpur
   District Nainital ..... Appellants

Vs

1. Parimal Dhali
   S/o Mr. Surendra Dhali
2. Bhuvesh Chatterje
   S/o Rampad Chaterje
3. Smt. Kalidasi
   W/o Shri Rajendra Pasi
4. Kalipad Mandal
   S/o Mr. Ram Chandra Mandal
   All R/o Dineshpur, Tehsil Gandapur
   District Nainital ..... Respondents

Sri Sharad Sharma, learned counsel for the appellants
Sri M.S. Bist, learned counsel for the respondents

Hon'ble B.C. Kandpal, J.

This second appeal has been preferred by the appellant against the judgment and decree dated 27.09.2002 passed by Additional District Judge/Fast Track Court, District Rudrapur, Udham Singh in Civil Appeal No. 30 of 2000 arising out of the judgment and decree dated 29.04.2000 passed by Civil Judge (Junior Division), Rudrapur District Udham Singh Nagar in Original Suit No. 161 of 1993.

2. Brief facts of the case are that the plaintiff/respondents filed a suit for permanent injunction before the Civil Judge (Junior Division), Rudrapur who decreed the suit in favour of the plaintiff/respondents vide judgment and decree dated 29.04.2000.

3. Feeling aggrieved by the aforesaid judgment and decree, the defendants/appellants preferred an appeal before the appellate court which was dismissed vide judgment and decree dated 27.09.2002.

4. Feeling aggrieved by the aforesaid judgments and decree, the appellant preferred an appeal before the Allahabad High Court, which has been transferred to this Court after creation of separate State.

5. Heard Sri Sharad Sharma, learned counsel for the appellants, Sri M.S. Bist, learned counsel for the respondents and perused the record.

6. Having considered the arguments advanced by the learned counsel for the parties and after perusing the entire evidence on record, I am of the view that, this second appeal is concluded by concurrent finding of facts, I, therefore, do not find any ground to interfere in the impugned judgments and orders passed by the courts below. Both the courts below have recorded concurrent finding of fact which cannot be interfered at the stage of second appeal. I also do not find any substantial question of law involved in this case.

7. The second appeal lacks merit and is liable to be dismissed.

8. Accordingly, the second appeal is dismissed in-limine.

(B.C. Kandpal, J.)

28.11.2006
ASWAL